



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/616,870	07/14/00	BEAUDRY	W 8115-12394A-

RYAN KROMHOLZ & MANION SC
P O BOX 26618
MILWAUKEE WI 53226-0618

QZ11/0308

EXAMINER

LEWIS, K

ART UNIT

PAPER NUMBER

3761

13

DATE MAILED:

03/08/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/616,870

Applicant(s)

BEAUDRY, WALLACE J.

Examiner

Kim K. Lewis

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26,32-40,42-54 and 104-117 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33-35,43-46,48 and 106-117 is/are allowed.
- 6) ☒ Claim(s) 32,36-40,42,47,49-54,104 and 105 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☒ The proposed drawing correction filed on 19 December 2000 is: a) ☒ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7,12.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☒ Other: *Detailed Action*.

Art Unit: 3761

DETAILED ACTION

This office action is in response to the amendment filed 12/19/00. The amendments to the specification have been made as requested. Claims 27-31 and 41 have been canceled. Claims 26, 33, 36, 43 and 46 have been amended. Claims 104-117 have been added.

Associate Power of Attorney

1. The associate power or attorney papers filed 11/13/00 have been received and made of record in the application file wrapper.

Oath/Declaration

2. The substitute oath or declaration filed 12/19/00 has been received and made of record in the application file wrapper.

Small Entity Statement

3. The small entity statement filed 12/19/00 has been received and made of record in the application file wrapper.

Drawings

Art Unit: 3761

4. The corrected or substitute drawings were received on 12/19/00. These drawings are approved by the examiner.

Information Disclosure Statement

5. The information disclosure statement papers filed 11/24/00 and 2/2/01 have been received, which papers have been made of record in the application file wrapper.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 26 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,534,010 ("Peterson").

Regarding claim 26, Peterson discloses a closure device for a skin wound comprising a first section having adhesive on a first side (col. 3, lines 5-6), an elastic second section (col.3, lines 31-34) and a third section having adhesive on a first side (col. 3, lines 6-7), as indicated on the front page of the patent. Further, as can be seen from the front page of the patent, the first section is connected to the second section and the second section is connected to the third section. The applicant should note that it has been held that the term "integral" is sufficiently

Art Unit: 3761

broad to embrace construction united by such means as fastening and welding. *In re Hotte*, 177 USPQ 336, 328 (CCPA 1973).

8. Claims 26, 32, 36, 37, 47, 49 and 104 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,788,660 ("Resnik").

Regarding claims 26 and 36, Resnik discloses an anchor for a surgical dressing comprising a first, second and third elastic sections. The first and third sections having a first side having adhesive thereon, and the first and third sections are each connected to the second section. Regarding applicants recitation of integral sections, note the discussion of the term integral above. The same applies in this case.

Regarding claim 32, note the layers shown in Fig.2 of Resnick.

Regarding claim 37, as can be seen from the front page of the Resnick patent, the second section has at least one opening.

Regarding claim 47, the openings in the second section are transparent.

Regarding claim 49, the second side of the section is capable of contacting a wound.

Regarding claim 104, note the front page of the Resnick patent.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3761

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 38-40 and 50-54 and 105 are rejected under 35 U.S.C. 103(a) as being unpatentable over Resnick.

Regarding claims 38-40, Resnick fails to teach the openings are a predetermined size, shape and has a predetermined spatial organization. Instead, Resnick provides the user with the option of determining the size, shape and spatial organization of the opening such that the device can be tailored to the individual use. Absent a critical teaching of such predeterminants, the examiner contends that the predeterminants would have been an obvious design choice which does not patentably distinguish applicant's invention.

Regarding claims 50-54, the device of Resnick is for securing a dressing to a user. As such, when in use, the second section of the device could comprise the dressing. Although Resnick is silent as to medicaments being used on the dressing to treat the wound, the examiner contends that the addition of medicaments to wound dressings is well known in the art, and that the type of medicament used (*i.e.*, zinc chromate calcium alginate or sodium alginate) does not patentably define applicant's invention since the disclosed medicaments are well known and used in the art.

Regarding claim 105, Resnick fails to teach the use of latex rubber. Absent a critical teaching and/or a showing of criticality derived from the use of latex rubber, the examiner contends that use of such is an obvious design choice.

Art Unit: 3761

Allowable Subject Matter

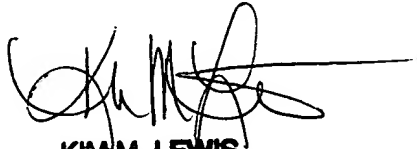
11. Claims 33-35, 43-46, 48 and 106-117 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is (703) 308-1191. The examiner can normally be reached on Mondays to Thursdays from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss, can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

kml
March 6, 2001


KIM M. LEWIS
PRIMARY EXAMINER
Au 3761